

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

Paper No. 17

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte FAZLE ALI,
JIANG HSIEH,
ROBERT F. SENZIG,
STEVEN C. DAVIS,
and
SHAWN P. FAESSLER

Appeal No. 2002-0565
Application No. 08/979,279

ON BRIEF

Before HAIRSTON, RUGGIERO, and BLANKENSHIP, Administrative Patent Judges.

HAIRSTON, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1 through 21. In an Amendment After Final (paper number 12) claims 2, 4, 5, 6, 12 through 15 and 18 were amended.

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The disclosed invention relates to a computed tomography system in which a manual controller is configured to manipulate images of a patient on a display during a fluoroscopy scan of a patient.

Claim 1 is illustrative of the claimed invention, and it reads as follows:

1. A computed tomography system comprising a display and configured to perform a fluoroscopy scan, said system also including a manual controller configured to manipulate images of a patient on said display during a fluoroscopy scan of the patient.

The reference relied on by the examiner is:

Fujita et al. (Fujita) 4,773,086 Sep. 20, 1988

Claims 1 through 21 stand rejected under 35 U.S.C. § 103 as being unpatentable over Fujita.

Reference is made to the briefs (paper numbers 13 and 15) and the answer (paper number 14) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1 through 21.

Fujita relates to X-ray computerized tomography with manual controls.

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Appellants argue throughout the briefs that Fujita neither teaches nor would have suggested to one of ordinary skill in the art a manual controller to manipulate images of a patient on a display during a fluoroscopy scan of a patient.

We agree with appellants' argument. Nothing in the record supports the examiner's conclusion (answer, page 7) that "the structure attributable to the independent claims is taught by Fujita." According to In re Lee, 277 F.3d 1338, 1343, 61 USPQ2d 1430, 1433-34 (Fed. Cir. 2002), the examiner's conclusory statements in the rejection must be supported by evidence of record. To date, the examiner has not provided any evidence to support the conclusion reached in the rejection that the computed tomography disclosed by Fujita is the same as the computed tomography with a fluoroscopy scan disclosed and claimed by appellants. Accordingly, the obviousness rejection of claims 1 through 21 is reversed.

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The decision of the examiner rejecting claims 1 through
21 under 35 U.S.C. § 103 is reversed.

REVERSED

KENNETH W. HAIRSTON)	
Administrative Patent Judge)	
)	
)	
)	BOARD OF PATENT
JOSEPH F. RUGGIERO)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
)	
)	
HOWARD B. BLANKENSHIP)	
Administrative Patent Judge)	

KWH/hh

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